

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY as subrogee
of Cynthia Thomas),

Plaintiff,

V.

Civil Action No. 07-543-***

UNITED STATES OF AMERICA,

Defendant.

**MOTION TO DISMISS OR, IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT**

Comes now the United States and moves the Court to dismiss the Complaint in the captioned matter or, in the alternative, to grant summary judgment in its favor and, in support thereof, avers as follows:

1. The Court lacks subject matter jurisdiction over the matter, so the Complaint should be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.
2. The Complaint fails to state a claim upon which relief can be granted, so it should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.
3. In the alternative, if the Court considers the attachment to the Opening Brief submitted in support of this motion, summary judgment in favor of the United States is appropriate, pursuant to Federal Rule of Civil Procedure 56.

COLM F. CONNOLLY
United States Attorney

/s/ Patricia C. Hannigan

BY:

Patricia C. Hannigan
Assistant United States Attorney
Delaware Bar I.D. No. 2145
The Nemours Building, Suite 700
1007 Orange Street, PO Box 2046
Wilmington, DE 19899-2046
(302) 573-6277
Patricia.Hannigan@usdoj.gov

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